IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9184 OF 2007

Narayan Raosaheb Jadhav .. Petitioner
Versus
Sahyadri Nagari Sahakari Credit Society Ltd. Pune and Ors. .. Respondents

Mr.D.J.Bhanage for petitioner
Mr.Shailendra with P.S.Dani for respondent No.6
Mr.S.M.Gorwadkar for respondent Nos. 1 to 5
Mr.A.M.Patne, A.G.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 17th December 2007

P.C.

. At the outset Mr.Bhanage states that no relief is sought against the respondent No.6 bank at this stage.

2. The order under challenge is passed by the Divisional Joint Registrar. The proceedings

are under the Maharashtra Coop.Societies Act and more particularly section 101 thereof. It is undisputed before me that earlier also this petitioner had approached this Court by way of writ petition being W.P.No.3454 of 2006. That petition was at the stage of entertaining revision application. This Court allowed the petition and directed by consent, the petitioner to deposit a sum of Rs.1 lakh. The matter was sent back to the Divisional Joint Registrar. The Divisional Jt.Registrar has proceeded to once again reject the revision application and that is how the second round by this petition.

3. I have perused the order passed by the Divisional Jt.Registrar. The Divisional Jt.Registrar has proceeded on the basis that the liabilities is not denied. However, the Divisional Jt.Registrar has observed that Writ Petition No.2295 of 2006 has already been filed and the same is pending. Said petition has been

filed at the stage of grant of recovery certificate and the certificate having been issued on 20th January 2006 so also the matter having proceeded further, the said petition has become infructuous. It is accordingly, dismissed as infructuous.

4. The Divisional Jt.Registrar, it appears has proceeded on the basis that the petitioner appeared in person and adjournment was sought on various dates. It was finally heard on 9th July 2007. The grievance of the petitioner is that principles of natural justice have been violated inasmuch as the matter proceeded ex parte. There is specific plea raised in that behalf. The Divisional Joint Registrar has also noted this aspect. The issue with regard to the rate of interest which has been pressed before me has also not been gone into despite the same having been specifically raised. It is in such circumstances and finding that all aspects of

controversy having been not gone into, I thought it fit to grant one more opportunity to the petitioner by putting him on certain terms.

5. Mr.Bhanage after taking instructions from petitioner who is present in court makes a statement that petitioner would deposit a further sum of Rs.75,000/- in addition to the sum already deposited, within four weeks from today. However, Mr.Gorwadkar would urge that this is a paltry amount inasmuch as the sum due and payable is to the tune of Rs.15 lakhs. A grievance being raised with regard to the rate of interest and the adjustments and appropriation till date. Interest of justice would be sub-served if the order under challenge is set aside on a condition that petitioner shall deposit Rs.75,000/- within four weeks from today. Needless to clarify that if the amount is not deposited revision application to stand dismissed and the order under challenge before me is confirmed. The

Society can, thereafter, proceed to recover the amount in accordance with law.

6. In case the amount is deposited, the Divisional Jt.Registrar to take up the revision application and dispose off the same as expeditiously as possible and before 28th February 2008. Revision application be disposed of uninfluenced by any observations in the earlier order.

7. Liberty to respondent to apply for withdrawal of the sum of Rs.3 lakhs and Rs.75,000/- to be deposited. However, it is made clear that request for withdrawal will be considered on its own merits and in accordance with law by the Divisional Jt.Registrar. Similarly, he should give directions to the first respondent with regard to the adjustment and appropriations of the amount already deposited. Keeping all contentions in that behalf open,

petition is disposed of.

(S.C.Dharmadhikari, J)